

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No. 10/820,789
Atty. Docket No. A8723

REMARKS

Claims 1-4, 7, 11-13, 15-20, 22-24, 26, 28-34, 36-39 and 41-55 are all the claims pending in the application. Claims 50-55 have been newly added herewith.

Examiner Interview

Applicants and Applicants' representative conducted an interview with the Examiner on February 2, 2007 and thank the Examiner for the courtesies extended at that time. During the interview, Applicants explained the application to the Examiner and its advantages over the prior art. Applicants also discussed the differences between the claimed invention and the prior art, particularly between the claimed united waterproof barrier material, as set forth in, for example, claim 26.

Claim Rejections

Claims 1-4, 7, 11-13, 15, 22-24, 30-34 and 36-39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pucci et al. (U.S. Patent No. 5,974,600) in view of Alfter et al. (U.S. Patent No. 4,073,535). Applicants respectfully traverse.

The Examiner acknowledges that Pucci fails to disclose a gasket with a thicker portion and a thinner portion as claimed. The Examiner asserts, however, that Alfter includes a gasket with a thicker portion and a thinner portion and that one of ordinary skill in the art would have been motivated to modify Pucci with Alfter so that it would have a gasket with a thicker portion and a thinner portion as claimed. Applicants disagree.

Pucci teaches a seal member (the alleged gasket) 74 which is flat and covers a portion of the bottom of the spa cover 12 (*see* Figs. 7 and 8). As shown in Fig. 7, the flat seal member 74 is

disposed upon a relatively large portion of the inner area of the bottom of the cover 12. The Alfter alleged gasket is irrelevant to Pucci. The Alfter gasket is shaped in one of three shapes (Figs. 2a-2c) so that it fits along the edge of a vehicle roof (*see* Fig. 3). The Alfter shape is only relevant to the particular Alfter structure. That is, Alfter gasket is shaped to match the shape of the opening in which it is supposed to fit. There is no motivation to include such a shape in a different structure, and particularly no motivation to include it in the entirely different structure of the Pucci spa cover. Accordingly, one of ordinary skill in the art would not have been motivated to modify Pucci with Alfter as suggested by the Examiner and claims 1-4, 7, 11-13, 15, 22-24, 30-34 and 36-39 are allowable over the combined teachings and suggestions of Pucci and Alfter.

Claims 16-20, 26, 28-30 and 41-49 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pucci in view of Alfter and further in view of Ziebert et al. (U.S. Patent No. 6,112,340).¹ Applicants respectfully traverse.

Initially, as discussed above, Pucci would not have been modified with Alfter. Therefore, to the extent that the Examiner is relying on a modified Pucci, the Examiner's rejection is improper for the reasons discussed above. These claims are also allowable for additional reasons.

The present application teaches that spa covers generally include a core material and an outer cover material formed around the core material. However, typical spa covers do not

¹ The Examiner asserts that these claims are unpatentable over the modified Pucci et al. The modified Pucci is in view of Alfter. Accordingly, this rejection is in view of Alfter as well.

prevent moisture from entering the spa cover core material. Since the covers do not stop moisture (in the form of water vapor), the water is absorbed by the core material, which acts as a sponge. The spa cover eventually becomes excessively heavy and needs to be replaced. *See* paragraphs [03] and [09]-[12].

The present application provides an improved cover material to prevent water vapor from being absorbed by the core. For example, a non-limiting embodiment of the present application teaches that a cover material 110 consists of multiple waterproof layers 110a, 110b, 110c. These layers can be made of the same material or can be laminated at different orientations. Analogous to plywood being stronger to the individual layers, the cover material of the present application provides a far lower moisture permeation rate than a single waterproof material and protects the core material over a longer period of time. *See* paragraphs [44]-[46]. Thus, claim 26, for example, recites a cover material which includes a first waterproof layer and a second waterproof layer. The first waterproof layer is laminated together with the second waterproof layer to form a single united waterproof barrier material. Accordingly, a cover according to claim 26 can benefit from the lower moisture permeation rate described in the application, thus preventing the core from being waterlogged and greatly extending the life of the spa cover.

The Examiner acknowledges that Pucci does not teach a united waterproof barrier material as claimed. However, the Examiner asserts that Ziebert teaches forming a single united waterproof barrier. In fact, neither Pucci nor Ziebert, either alone or in combination, teach a united waterproof barrier as claimed. These references simply lack a united barrier material with

multiple waterproof layers as claimed. Thus, they do not benefit from the improved moisture permeation rates, their cores will become waterlogged and they need to be frequently replaced.

In rejecting the claimed invention, the Examiner asserts that Ziebert teaches an ABS plastic and a foam core laminated together which constitute a cover including a united waterproof barrier material. However, these materials cannot be considered the claimed barrier material. The claimed spa cover includes a core insulating material and a cover material with multiple layers covering the core material. In asserting that Ziebert has a cover material with multiple layers, the Examiner includes the core itself. The Ziebert foam core clearly cannot be part of the cover material covering the core. Also, the ABS plastic cover material is not a united waterproof barrier with multiple layers as claimed. Neither Pucci nor Ziebert teach a cover which includes multiple waterproof layers united as a single waterproof barrier layer as claimed. Accordingly, a cover made from the teachings of these references would not benefit from the improved moisture permeation rates taught by the present application and would not last long before becoming waterlogged.

At least some of these claims are also allowable for additional reasons. For example, the Examiner still fails to address how he believes that the combination of references teaches that the waterproof barrier is a multi-layer PVDC resin as set forth in claims 28 or 49.

In view of the above, Applicants submit that claims 16-20, 26, 28-30 and 41-49 are allowable over the combined teachings and suggestions of Pucci, Alfter and Ziebert.

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New Claims

Applicants have added new claims 50-55. Claims 50, 52 and 54 depend from claim 26 and claims 51, 53 and 55 depend from claim 29. Therefore, claims 50-55 are allowable at least by virtue of their respective dependencies. These claims are also further allowable for the additional recitations included therein.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


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Date: March 30, 2007